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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,581	10/09/2001	Jay S. Walker	01-033	5776

22927 7590 01/25/2005

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EXAMINER

ANWAH, OLISA

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/973,581

Applicant(s)

WALKER ET AL.

Examiner

Olisa Anwah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-8, 11-18, 21 and 22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Morganstein et al, U.S. Patent No. 5,020,095 (hereinafter Morganstein).

Regarding claim 1, Morganstein discloses a method comprising receiving a call from a caller, the call being associated with a first merchant; placing the call in a queue; determining a second merchant; and establishing a connection, the connection enabling communication between the caller and the second merchant while the call is in the queue (see Figures 2a-e).

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Regarding claim 2, see Figures 2a-e.

Regarding claim 3, see Figures 2a-e.

Regarding claim 4, see Figures 2a-e.

Regarding claim 5, see Figures 2a-e.

Regarding claim 6, see Figures 2a-e.

Regarding claim 7, see Figures 2a-e.

Regarding claim 8, see Figures 2a-e.

Regarding claim 11, see Figures 2a-e.

Regarding claim 12, see Figures 2a-e.

Regarding claim 13, see Figures 2a-e.

Regarding claim 14, see Figures 2a-e.

Regarding claim 15, see Figures 2a-e.

Regarding claim 16, see Figures 2a-e.

Regarding claim 17, see Figures 2a-e.

Regarding claim 18, see Figures 2a-e.

Regarding claim 21, see Figures 2a-e.

Regarding claim 22, see Figures 2a-e.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 9, 10, 19 and 20 are rejected under 35 U.S.C § 103(a) as being unpatentable over Morganstein in view of Szlam et al, U.S. Patent No. 5,675,637 (hereinafter Szlam).

Regarding claim 9, Morganstein does not teach the claimed retrieving limitation. Nonetheless Szlam discloses this limitation (column 17). Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Morganstein with the retrieving method taught by Szlam. This modification would have improved the efficiency of Morganstein by automatically obtaining, consolidating and displaying caller information as suggested by Szlam.

Claim 10 is rejected for the same reasons as claim 9.

Claim 19 is rejected for the same reasons as claim 9.

Claim 20 is rejected for the same reasons as claim 9.

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa


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Anwah whose telephone number is 703-305-4814. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

O-A.  
Olisa Anwah  
Patent Examiner  
January 20, 2005

  
FAN TSANG  
SUPERVISOR PATENT EXAMINER  
TECHNOLOGY CENTER 2600